



Congress of the United States

House of Representatives

Washington, DC 20515

November 20, 2008

President-elect Barack Obama
Presidential Transition Team
Washington, DC 20270

Dear Mr. President-Elect:

In your recent interviews on *60 Minutes* and *Monday Night Football*, you indicated that the current Bowl Championship Series (BCS) is not the way that our National Collegiate Athletic Association (NCAA) Division I Football Bowl Subdivision (formerly Division I-A) national championship should be decided. We agree, and earlier this year, we introduced H. Res. 1120, which we believe provides the basis for the NCAA to establish a football playoff to determine the national championship.

H. Res. 1120 rejects the BCS system as an illegal restraint of trade, in violation of the Sherman Antitrust Act. The U.S. Supreme Court has applied the Sherman Act to collegiate sports, as they became more commercialized. This is among the reasons why the NCAA withdrew from sponsoring postseason Division I-A football.

The BCS cannot withstand application of the Sherman Antitrust Act. The test most applicable in this case is the rule of reason analysis. When applying this test, the Court weighs anticompetitive effects against procompetitive benefits, and determines if there is a less restrictive alternative to meet the objectives sought in the issue at hand. In both tests, BCS fails.

The anticompetitive effects of the BCS far outweigh its procompetitive benefits. The most obvious anticompetitive effect is the vast difference in revenue generated in the postseason between the BCS and non-BCS schools (members of Conference USA, Mid-American, Mountain West, Sun Belt, and Western Athletic Conferences), which do not have an annually-guaranteed slot in a BCS game.

The current BCS process is fundamentally unfair. Non-BCS schools are at a competitive and financial disadvantage prior to the first kickoff of the season. This has repercussions far beyond their restricted access to the national championship. The BCS generates hundreds of millions of dollars in revenue annually, and this money is disproportionately awarded to the six BCS conferences. Sixty-six bowl-eligible schools—just more than

half of the Division I Football Bowl Subdivision — shared 85% of the \$217 million generated by the 2006-2007 postseason bowls, about \$185 million.

Money generated by the postseason games helps schools cover costs for their athletic departments, facilities, equipment, recruitment, and other sports programs. Non-BCS schools must use their general funds to cover the costs of their athletic departments, which takes funding away from academic and administrative needs.

The lopsided distribution of BCS revenue results in two tiers within the NCAA Football Bowl Subdivision: those with access to the BCS, and those without. Those without are unable to change their situation as the money and prestige associated with the BCS makes it highly unlikely that a non-BCS school will be able to compete for the same recruits, coaches, sponsorships, national television exposure, and the revenue it generates. This disparity locks them in the second-class status.

To defend itself, the BCS claims that its system fosters competition and allows the best teams in the country to compete for the national championship. They claim this is enough of a competitive benefit to outweigh the anticompetitive effects.

However, even BCS schools and coaches do not believe the BCS system is the best way to determine the national champion. Recently, Pete Carroll, head coach of the Pac-10's University of Southern California Trojan football team, whose team regularly plays in the BCS bowls, was supportive of your remarks and of a playoff system.

Others who have recently expressed reservations about the BCS include Michael Adams, President of the University of Georgia, and James Bernard Machen, President of the University of Florida. Both schools are members of the Southeastern Conference. Their schools have been very successful in the BCS system. However, they realize that the BCS does not necessarily place the best schools in the championship game.

The BCS itself has changed its system in the past when pressed. The last major change came in 2004, which allowed the possibility of one non-BCS school per year to participate in the BCS bowls. This happened when the Presidential Coalition for Athletics Reform, consisting of the majority of non-BCS school presidents, demanded reform. The Coalition's actions, as well as Senate and House Judiciary Committees hearings on the legality of the BCS that year, brought the BCS to the table to negotiate.

With the support of the U.S. Department of Justice, we believe the BCS system could be replaced with a fair, inclusive playoff system.

An NCAA Division I FBS Championship playoff would be a much less restrictive alternative. The NCAA would have to retake control of the postseason for Division I FBS. The NCAA could determine the logistics of the playoff, as it does for 88 other team championships, including Division I Football Championship Subdivision (FCS, formerly Division I-AA), II and III football.

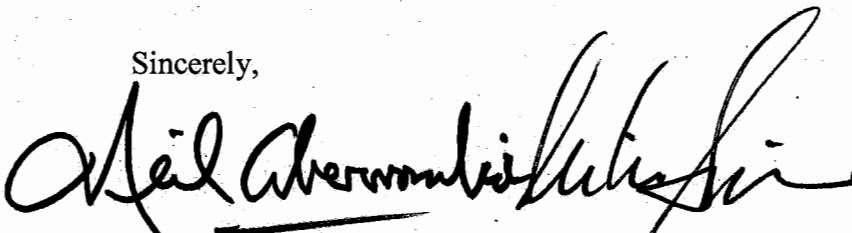
The playoff would be less restrictive, as it allows all the teams an even start at the beginning of the season. A playoff takes away the obvious advantages BCS schools enjoy simply for being members of the right conferences. While BCS schools may still dominate at first, it would immediately give non-BCS schools an opportunity to become a "Cinderella story," as happens nearly every March in the NCAA Division I Basketball Tournament. It also removes any doubt as to whether the best teams competed in the championship, which the BCS currently fails to do.

Our resolution calls for the Department of Justice Antitrust Division to investigate and bring appropriate actions against the parties of the BCS. This, we believe, is the best way for the federal government to take action to end this illegal system.

We have seen the BCS alter itself in the past when legitimate inquiries are made about its structure. With the prestige of the Presidency and vigorous pursuit by the Department of Justice in support of fairness and equity, we are certain the BCS will be persuaded to resolve the issues involved to the benefit of the nation's colleges and their fans.

Thank you for your attention. Please do not hesitate to contact us if we can be of further assistance.

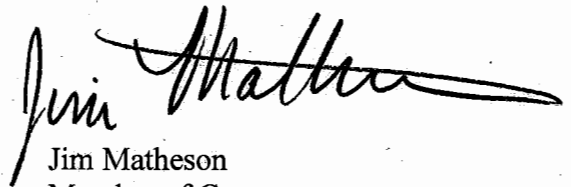
Sincerely,



Neil Abercrombie
Member of Congress



Michael K. Simpson
Member of Congress



Jim Matheson
Member of Congress